

## **REMARKS**

### **A. BACKGROUND**

The present Amendment is in response to the Office Action mailed December 15, 2008. Claims 1-3, 8, 10, 16, 21, 23, 24, and 30-38 were pending and rejected in view of cited art.<sup>1</sup> Claims 1, 16, 23, and 24 are amended. Claims 1-3, 8, 10, 16, 21, 23, 24, and 30-38 remain pending in view of the above amendments, with claims 1 and 30 being independent claims.<sup>2</sup>

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

### **B. EXAMINER'S INTERVIEW**

Applicant and Applicant's representative express their appreciation to the Examiner for conducting an interview on March 16, 2009 regarding the amended Title of the Invention. The substance of the interview is included in this response.

### **C. AMENDMENT TO THE TITLE**

The Title of the Invention was changed from "Stent Catheter System" to "Stent Catheter System with Flared Ends." In response, Applicant hereby amends the Title of the Invention to recite "Stent Catheter System for Throttling Blood Flow."

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

<sup>2</sup> Support for the claim amendments and/or new claim(s) can be found throughout the specification and drawings as originally filed.

**D. PRIOR ART REJECTIONS**

**I. REJECTION UNDER 35 U.S.C. § 103**

The Office Action rejected claims 1-3, 8, 10, 21, 23, 24, 30-33, and 35-37 under 35 U.S.C. § 103(a) as being unpatentable over European Publication No. 0779062 (*Glastra*) in view of European Publication No. 0861638 (*Pinchuk*). Claims 16, 34, and 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Glastra* in view of *Pinchuk* and further in view of U.S. Patent No. 5,853,116 (*Crocker*). Applicant traverses the Examiner's rejection for obviousness on the grounds that the references – either individually or in combination – fail to teach or suggest each and every element of the rejected claims.

*Glastra* was cited as showing “a stent-catheter arrangement having a balloon 26 with two fully expandable ‘substantially cylindrical’ sections 27 and a ‘substantially cylindrical’ section of reduced expandability between the sections” (Office Action, page 2). *Glastra* teaches that “the balloon 6 has been preformed and comprises a substantially cylindrical central-section with on either side end-sections diverging so as to have larger diameters” (Col. 2, ll. 47-50). Further, *Glastra* teaches that “the stent 4 has a substantially cylindrical central-section 11 and two end-sections 12 which have been expanded more. . . . Due to these funnel-shaped end-sections 12 . . . the entire stent 4 is enclosed inside the construction 3” (Col. 3, ll. 1-7). *Glastra* identifies its central-section as “substantially cylindrical” while identifying the end-sections as “diverging end-sections” or “funnel-shaped end-sections.” Applicant respectfully submits that the Office Action's characterization of *Glastra*'s end-sections is contrary to the teaching of *Glastra* because the language of *Glastra* and Figs. 3-8 state and illustrate a difference between the end-sections, which are “diverging end-sections” or “funnel-shaped end-sections” and the central-section which is “substantially cylindrical.” Applicant has been unable to find in *Glastra* where the end-sections are described as “substantially cylindrical.”

Applicant further has been unable to find in *Glastra* any teaching that the stent has “first and second substantially cylindrical fixing portions, a substantially cylindrical portion coupled to said first and second expanded fixing portions, and first and second tapering portions of predetermined lengths and angles,” as recited, in part, by independent claim 1. Further, *Glastra* neither teaches nor suggests that the stent “extend[s] over said substantially cylindrical segment of reduced expandability, said taper sections, and portions of said first and second substantially cylindrical sections,” as recited, in part, by independent claim 1 or “extend[s] over the [substantially cylindrical] middle section, the tapered sections, and at least portions of the first

and second end sections," as recited, in part, by independent claim 30 because the ends of the stent are "diverging end-sections" or "funnel-shaped end-sections" and do not include a "substantially cylindrical section" as illustrated in Figs. 3-8.

*Pinchuk* discloses "a first stent-graft . . . ha[ving] a flared proximal end 102, a flared distal end 104, and a midsection." (See, col. 6, ll. 4-7 (emphasis added); see also, Figures 9-11.) Applicant has been unable to find in *Pinchuk* any teaching of the stent-graft extending over any portion of a balloon. Consequently, Applicant has been unable to find in *Pinchuk* a teaching that "the stent extends over said substantially cylindrical segment or middle section of reduced expandability, said taper sections, and portions of said first and second substantially cylindrical sections of the balloon," as recited, in part, by independent claims 1 and 30. Further, Applicant has been unable to find a teaching or suggestion that the stent of *Pinchuk* has "first and second substantially cylindrical fixing portions, a substantially cylindrical portion coupled to said first and second expanded fixing portions, and first and second tapering portions of predetermined lengths and angles," as recited, in part, by independent claim 1.

*Crocker* was cited as showing "that stiffening material is integrated into balloons to limit the expansion of the balloon in certain areas . . . [and] also teaches bonding" (Office Action, page 4). *Crocker* fails to remedy the deficiencies of *Glastro* and *Pinchuk* with respect to independent claims 1 and 30.

In view of the failure of *Glastro*, *Pinchuk*, and *Crocker* to teach the stent-catheter arrangement of independent claims 1 and 30, and associated dependent claims 2-3, 8, 10, 16, 21, 23, 24, and 31-38, Applicant respectfully requests withdrawal of the Section 103 rejection.

#### **E. CONCLUSION**

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner

provide references supporting the teachings officially noticed, as well as provide the required motivation or suggestion to combine references with the other art of record.

For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 16th day of March, 2009.

Respectfully submitted,

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